WASHINGTON REPRESENTATIVE

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THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
Office of the Executive Director

OFFICE MEMORANDUM #18-88

July 18, 1988

ASBESTOS CONTROL

I am pleased to announce the appointment of Richard P. Peduto, presently Assistant Director, Management and Budget Department, as Program Director of the Asbestos Control Program, reporting to the Assistant Executive Director for Capital Programs, effective July 18, 1988. Dick is replacing Sal Samperi, who has assumed the position of Assistant Director for Policy and Administration in the Public Safety Department. I want to extend our appreciation to Sal for his work in organizing the Port Authority's Asbestos Control Program.

Dick has served with distinction in the creation of the Management and Budget Department and has had a key role in the development of business planning and capital planning within the Port Authority. Prior to assignment to the Management and Budget Department, he held a number of progressively more responsible positions in the Personnel Department, the last of which was as Manager of the former Management Personnel Division. Dick came to the Port Authority in 1968 through our Management Trainee Program.

In his new capacity, Dick will work closely with the line departments, Engineering, Law, and the Finance departments. He will have lead responsibility for all facets of the asbestos program, and will be the Port Authority's representative on asbestos issues with the public and private sectors. I ask that these efforts continue to receive your support and cooperation.

Stephen Berger
Executive Director

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The Port Authority of NY & NJ Memorandum

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TO: John Collura
FROM: Richard Peduto
DATE: July 1, 1992
SUBJECT: **ASBESTOS CONTROL PROGRAM 1993-1997 BUSINESS PLAN**

COPY TO: E. Bialik, J. Evans, M. Pachter, A. Shorris

Attached is the 1993-1997 Business Plan and Mission Statement for the Asbestos Control Program and Asbestos Litigation Task Force. As in the past, this document reflects both asbestos litigation and asbestos control activities as we strive to fulfill our responsibility to oversee and manage all aspects of the asbestos issue at the Port Authority.

For the foreseeable future, the Port Authority will have a continuing need to focus attention and manage the asbestos issue. This opinion was confirmed by your department in the program review of the Asbestos Control Program and other Port Authority's environmental units. While we anticipate the eventual merger of these environmental units into one and the likelihood of some changes, we did not take this into consideration in the attachment.

Over the past year, we have made significant strides in establishing and fine tuning policies and procedures which are critical to our asbestos program. As we maintain a safe environment for our patrons, tenants and employees, we continue to stay abreast of the latest regulations and technology, and to challenge the cost effectiveness of abatement decisions.

Our litigation efforts continue to be fruitful. Recently, the Federal District Court handling our case sustained our amended complaint, over the defendants' objection, to bring a Racketeer Influenced and Corrupt Organizations Act (RICO) charge against a number of defendants in our suit. We have settled our lawsuit with a few smaller defendants, and are in the midst of settlement negotiations with others. We still believe that our lawsuit against the asbestos miners and manufacturers will conclude by 1995. We do, however, anticipate our resources shifting to our lawsuit against the Port Authority's insurance carriers, other asbestos manufacturer bankruptcies besides Johns Manville, such as Celotex and National Gypsum (we filed at the end of June a claim which is but the first step in the recovery process. An estimate of the dollar value of our claim, while premature, could be around one million dollars or much more), and third party lawsuits in which the Port Authority is the defendant.

We have reviewed our resource requirements in the context of our mission and objectives, MBD's targets, as well as the Executive Director's guidance, and our budget will meet them.

We expect to submit our budget on July 17th and will make any necessary revisions when the environmental function reorganization is implemented.

Dick

Richard Peduto
Director
Asbestos Control Program

Att.:

ASBESTOS CONTROL PROGRAM

ASBESTOS LITIGATION TASK FORCE

1993-1997 - BUSINESS PLAN

MISSION

It is the mission of the Asbestos Control Program to propose, gain acceptance, implement and ensure compliance with policies, practices and procedures for the management of all aspects of the asbestos issue for the Port Authority, including issues of safety, technology, cost effectiveness and cost recovery, and public, patron, tenant and employee avareness. In developing and carrying out its mission, the Asbestos Control Program works closely with the Executive Director's Office, line departments, Engineering, Law, Treasury and the Comptroller's departments. The Asbestos Control Program has lead responsibility for all facets of the asbestos program, and is primarily accountable for all asbestos issues within the public and private sectors.

Key Assumptions

- Asbestos will remain a hazardous material, and building owners will be held accountable for maintaining asbestos in a hazard safe condition.
- Current regulations concerning asbestos will remain in place, with a high likelihood of becoming even more stringent.
- The Port Authority will abide by all federal regulations and in the absence of a successful challenge by either state, will generally conform with all state and local regulations.
- In the absence of regulations, the Port Authority will adopt and/or develop policies and practices which are prudent and reasonable from a business and public policy standpoint.
- Although litigation and other proceedings are expected to be protracted, the Port Authority will ultimately recover an amount well beyond the incremental cost of the effort.
- Work on recovery of property damage will continue as long as there are viable and significant recovery sources.

- o Asbestos present at our facilities will be abated only in those instances which prove to be in accordance with current Port Authority policies.

- o What is abated and how it is abated will be challenged to ensure that abatement only occurs as necessary, and then at the most effective cost.

To achieve its mission, the Asbestos Control Program has established the following objectives and strategies:

1. Objective: **Protect Port Authority patrons, tenants, employees and the public.**

   - o Ensure periodic audits of the condition of all accessible asbestos in Port Authority buildings.

   - o Oversee PA responses associated with the abatement of asbestos.

   - o Ensure that abatement contracts contain appropriate specifications, and monitor and evaluate contractors' performance in compliance with them.

   - o Maintain and monitor regulatory compliance, and ensure that revisions are consistently disseminated and implemented throughout the Port Authority as appropriate.

   - o Ensure that staff support personnel, facility field supervisors, and staff working with asbestos containing materials are properly trained.

   - o Promote, monitor, and revise when necessary, the agency-wide asbestos training program for all Port Authority staff.

   - o Stay abreast of technological and operational practices and procedures which result in a safer and more efficient way to maintain, abate and dispose of asbestos.

   - o Ensure through policy development that proposed tenant alteration work meets all appropriate federal, state and local regulations, and that it is in conformance with Port Authority asbestos management policies.

   - o Develop PA asbestos policies which serve as the agency's asbestos management plan and detail how asbestos is controlled and abated.

- o Meet with facility asbestos coordinators to clarify PA policies and assist in facility planning, administrative support, and facility management of asbestos.

2. Objective: **Ensure that the Port Authority Asbestos Control Program is conducted in a reasonable and an economically sound manner.**

   - o Review and approve variances to Port Authority policy and practices and review variances approved by the Asbestos Management Division.
   - o Participate in the review and analysis of line and staff departments' business plans and budgets.
   - o Review and evaluate asbestos field management practices proposed by the Asbestos Management Division and the Engineering Department.
   - o Evaluate implications and costs as part of the development of asbestos policy decisions.
   - o Ensure that, where appropriate, proposed abatement jobs are challenged by the Asbestos Management Division and the Engineering Design Division.
   - o Where possible, recommend competitive bidding rather than time and materials contracts.
   - o Promote the use of the in-house Transmission Electron Microscope to its maximum potential, thereby ensuring better service and lower cost.

3. Objective: **Be the central source of information in the Port Authority on the asbestos issue.**

   - o Respond to all media inquiries in conjunction with the Office of Media Relations, and other departments as appropriate.
   - o Inform patrons, tenants, and employees about asbestos matters where appropriate.
   - o Seek out and participate in opportunities to publicly present the agency's asbestos control effort.
   - o Develop and maintain contact with federal, state and municipal regulatory agencies and relevant organizations in the public and private sectors.

- o Participate in training and recognized forums at which key players in the industry meet and confer.

- o Periodically meet with staff of the Asbestos Management Division, the Engineering Design Division and with participants on the PA's Asbestos Advisory Council.

- o Perform administrative reviews of abatement jobs in progress and periodically visit job sites.

- o Gain membership in important industry associations and stay current on key periodicals published in the field.

- o Maintain a repository of all asbestos abatement files and make available when required.

4. Objective: **Recover from miners and manufacturers of asbestos containing materials and the Port Authority's insurance carriers, the damages incurred or to be incurred by this agency resulting from the presence of such materials at Port Authority facilities.**

- o Ascertain product identification (miners and manufacturers) and demonstrate and document the Port Authority's asbestos damages.

- o Investigate Port Authority, contractor, and manufacturer information sources.

- o Sample asbestos containing materials in Port Authority and tenant areas and coordinate sample identification and analysis with independent laboratories while at all times employing and safeguarding litigation protocol and the "chain of custody" of such samples; ensure that all of the above is kept within the parameters of the confidentiality of the attorney's work product.

- o Establish and maintain a system to obtain information on planned abatement jobs that satisfies the requirements of pending litigation, including the requirement to provide defendants with appropriate advance notification of abatement jobs.

- o Manage the inspection and sampling of asbestos material at Port Authority facilities by defendants.

- o Establish and maintain databases of provable asbestos costs and lost revenue by building and by defendant.

- o Establish and maintain databases of building histories, abatement projects, cost information and other data.

- o Prepare and submit property damage claims against those manufacturers who have established bankruptcy trust funds for claimants to recover asbestos abatement expenditures.

- o Respond to defendants' discovery (i.e., Depositions, Bills of Particulars, Interrogatories, Notices to Admit and Notices of Discovery and Inspection).

- o Prepare for Port Authority discovery of defendants' records.

- o Establish the health effects implications for the presence of asbestos in Port Authority buildings.

- o Identify expert witnesses and others to testify on behalf of the Port Authority in the areas of product identification, damages and health effects.

- o Prepare documentary evidence and appear in court proceedings as witnesses on behalf of the Port Authority and represent the agency in settlement negotiations.

5. Objective: **Assist in providing agency-wide direction in all other legal matters pertaining to asbestos.**

   - o Ensure that Port Authority interests in all asbestos-related lawsuits are protected.

   - o Counsel management toward minimizing Port Authority liability in connection with all aspects of the asbestos issue.

   - o Provide required backup for workers' compensation claims.

   - o Perform "damage control" when apprised of possible liability due to asbestos material.

6. Objective: **Provide counsel and when appropriate, provide key litigation and support services for asbestos cases in which the Port Authority is the defendant.**

   - o Assist in defense of lawsuits brought against the Port Authority at all stages including examinations before trial, other discovery, document gathering and indexing.